TITLE II—RECOGNITION OF THE APPALACHIAN FOUNDATION

SEC. 201. The Congress finds and declares that—

(a) in 1965, the Congress found that the Appalachian Region lagged behind the rest of the Nation in economic growth and its people had not shared properly in the Nation's prosperity;

(b) the Appalachian Regional Commission was created by Act of Congress to assist the Region in promoting economic development and meeting its special problems;

(c) while substantial progress has been made, especially with respect to essential public facilities, much remains to be accomplished in the areas of health, education and other public services;

(d) in 1981, the Congress directed the Commission to develop and report to Congress a plan for the orderly phase-out of its activities;

(e) on December 31, 1981, the Appalachian Regional Commission submitted a comprehensive Finish-Up program to the Congress detailing great progress in the Region since 1965, while recognizing that many difficult problems remain, and setting out a program to address those problems;

(f) Title I of this bill provides the legislative authority to begin implementation of the Governors' program;

(g) the Governors of the 13 Appalachian States have created and sponsored the Appalachian Foundation to bring new investment to the entire region;

(h) the purposes of the Appalachian Foundation are to build on the economic momentum created by the Federal investments in the Region; to increase the private sector funds coming into the Region from corporations, foundations, and individuals; to strengthen and expand non-profit services in the Region; and to catalyze public-private partnership solutions to urgent Regional problems;

(i) the Appalachian Foundation is intended to supplement the activities of the Appalachian Regional Commission, particularly in areas outside the Commission's statutory authority, by assembling funds from the private sector and directing their expenditures in the Region; and

(j) the Appalachian Foundation is incorporated under the laws of the State of Virginia and is governed by a Board of Directors made up of the 13 Appalachian Governors and representatives of the private sector.

SEC. 202. Therefore, on the basis of the findings of section 201, the Congress recognizes the organization known as the Appalachian Foundation, a public foundation: *Provided*, however, that the Appalachian Foundation shall not claim Congressional approval or Federal Government Authorization for any of its activities; and, *Provided* further, that the Appalachian Foundation shall maintain status as an organization exempt from taxation as provided in the Internal Revenue Code, and if the Appalachian Foundation fails to maintain such status, the recognition hereby granted shall expire.●

By Mr. BAKER for Mr. GOLDWATER:

S. 66. A bill to amend the Communications Act of 1934; to the Committee on Commerce, Science, and Transportation.

S. 66—THE CABLE TELECOMMUNICATIONS ACT OF 1983

● Mr. GOLDWATER. Mr. President, introduction on March 4, 1982, of S. 2172, the Cable Telecommunications Act of 1982, represented the culmination of a process that bagan in 1979 when I introduced legislation that contained similar provisions. Extensive hearings were held on that bill but no action was taken in the 96th Congress.

In 1981, the Commerce Committee considered a number of communications bills that were passed by the Senate. Among those was S. 898, which contained several cable provisions. However, no hearings had been held on those particular sections in S. 898. Therefore, during the floor debates on that bill, I objected to those provisions because of the commitments I had made that there would be no cable legislation without hearings. I also made it clear that I was not objecting to the substance of the cable provisions in S. 898. My amendment to delete those provisions was successful, and they were stricken from the bill.

Shortly thereafter, the Commerce Committee held two field hearings on cable. The first was in Seattle, Wash., on January 18, 1982, chaired by Senator PACKWOOD, and attended by Senator GORTON. The Committee heard testimony from 10 witnesses. The second was in Albuquerque, N. Mex., on February 16, 1982, and was chaired by Senator SCHMITT. He heard from 10 witnesses as well. In addition, statements were received for the record from 18 other parties. Much of the evidence accumulated during those hearings helped to formulate some of the provisions in S. 2172.

That bill was the result of many months of study on the issues and was the first time that a comprehensive bill had been introduced on cable. Hearings were held before the Subcommittee on Communications on April 26, 27, and 28, 1982, and we heard testimony from 54 witnesses, and received statements from scores of others. Ater reviewing all of the testimony and meeting with representatives of the cities and the cable industry, S. 2172 was revised. Those revisions were incorporated into a substitute bill which was favorably reported by the Commerce Committee on July 22, 1982, by a vote of 13 to 3.

Unfortunately, there was simply not time to bring S. 2172 to the full Senate for a vote before adjournment of the 97th Congress. However, when that fact was evident, I announced my intention to reintroduce a cable bill at the beginning of the 98th Congress. This bill fulfills my pledge.

Mr. President, this bill, the Cable Telecommunications Act of 1983, establishes a new title in the Comunications Act of 1934 for cable telecommunications, and it is virtually identical to S. 2172, which was the first comprehensive bill ever to be introduced on the subject. The bill creates a jurisdictional framework which apportions the regulatory authority between the Federal, State, and local governments, and establishes a national policy for the provision of cable. Finally, S. 66 addresses the specific issues of ownership, access channels, rate regulation, franchise fees, renewals and extensions, protection of subscriber privacy, criminal and civil liability, and jurisdiction.

Last year, many city officials opposed S. 2172. In an effort to reach an agreement, I asked the cable industry and the cities to attempt to resolve their differences. I understand that the National League of Cities (NLC) and the National Cable Television Association (NCTA) are presently engaged in negotiations to accomplish that purpose. Those meetings conclude the end of this month and I hope they are successful.

If they are able to resolve their differences—or at least, most of them—in a manner which is consistent with the fundamental principles embodied in this bill, and with the overall communications policies of the Commerce Committee, I shall make every effort to incorporate those resolutions into this legislation. But I cannot and will not wait until these groups conclude their meetings, take the provisions to their respective boards for approval, and then announce their respective decisions. Even under the best scenario, that would mean delaying legislation until the middle or end of March, which is too long. But I stress again that I will be more than receptive to any changes in my bill at any point in the legislative process to reflect mutual agreement between the NLC and the NCTA.

Finally, Mr. President, I would like to take this opportunity to congratulate my colleague, Senator HOLLINGS, on his elevation to ranking member of the Commerce Committee, and his continuation as ranking member of the Subcommittee on Communications. I look forward to working closely with Senator HOLLINGS on this bill and the other communications bills which will be introduced this Congress. Senator HOLLINGS has a great deal of expertise and experience in communications policy matters, and I have profited greatly through the years from his advice and counsel.

I sincerely hope that we are able to achieve bipartisan support for this legislation in the months ahead. I am confident that Senator HOLLINGS and I, and the other members of the Communications Subcommittee, will be able to work together toward that end, so that cable legislation can be a reality this year. It is my firm belief that we need to establish a national policy for cable this year if that industry is to ever realize its full potential. If we do not get legislation soon—this year—the current patchwork system of Federal, State, and local regulation of cable will be too firmly entrenched to undo.

Mr. President, there will be ample opportunity for public comment on S. 66, as there was on S. 2172. The Subcommittee on Communications will

hold hearings on this bill on February 16 and 17, 1983.

Mr. President, I invite my colleagues to join in cosponsoring this bill.

Mr. President, I ask unanimous consent that this bill and a summary describing it be printed in their entirety in the RECORD, following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 66

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Cable Telecommunications Act of 1983".

The Communications Act of 1934 is amended by inserting immediately after title V the following new title:

"TITLE VI—CABLE TELECOMMUNICATIONS ACT

"FINDINGS

"SEC. 601. The Congress hereby finds that—

"(1) cable systems are engaged in interstate commerce through the origination, transmission, distribution, and dissemination of broadband telecommunications services;

"(2) the provision of cable telecommunications is of concern to governmental entities; and

"(3) a uniform national policy for cable can serve to eliminate and prevent conflicting regulations in order to allow unhampered growth and development of cable as a competitive medium which will be responsive to and serve the needs and interests of the public.

"PURPOSES

"SEC. 602. The purposes of this Act are to—

"(1) establish a national policy concerning cable telecommunications and to encourage a competitive environment for the growth and development of cable telecommunications;

"(2) establish guidelines for the exercise of Federal, State, and local regulatory authority; and

"(3) allow cable systems to compete in the marketplace on an equal basis with other providers of telecommunications services to the public.

"DEFINITIONS

"SEC. 603. For purposes of this title, the term—

"(1) 'basic service' means the provision of retransmission of broadcast signals which is distributed by coaxial cable or any other closed transmission medium;

"(2) 'basic telephone service' means service provided through a switched network capable of providing two-way voice grade communications;

"(3) 'broadband telecommunications' means any receipt or transmission of electromagnetic signals over coaxial cable or any other closed transmission medium;

"(4) 'broadcasting' means telecommunications by radio intended to be received by the public, directly or by the intermediary of relay stations;

"(5) 'cable channel' or 'channel' means that portion of the electromagnetic frequency spectrum used in a cable system for the propagation of an electromagnetic signal;

"(6) 'cable operator' or 'cable system operator' means any person or persons, or an agent or employee thereof, that operates a cable system, or that directly or indirectly owns a significant interest in any cable system, or that otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system;

"(7) 'cable service' means the provision by a channel programer of one-way programing on a per channel, per program, or other basis which is distributed by coaxial cable or any other closed transmission medium, but such term shall not include basic service or public, educational, or governmental service;

"(8) 'cable subscriber' means any person who receives or transmits electromagnetic signals distributed or disseminated by a cable operator or a channel programer over a cable system;

"(9) 'cable system' means a facility or combination of facilities under the ownership or control of any person or persons, which consist of a primary control center used to receive and retransmit, or to originate broadband telecommunications service over one or more coaxial cables, or other closed transmission media, from the primary control center to a point of reception at the premises of a cable subscriber, but such term does not include: (A) a facility or combination of facilities that serves only to retransmit the television signals of television broadcast stations; (B) a facility or combination of facilities that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management; or (C) a common carrier subject to the provisions of title II of this Act whenever such carrier transmits broadband telecommunications services;

"(10) 'channel programer' or 'programer' means any person having an agreement to provide basic service, public, educational, or governmental service, or cable service to a cable system operator, or any person who leases, rents, or is otherwise authorized to use the facilities of a cable system for the provision of basic service, public, educational, or governmental service, or cable service, and such term shall include a cable system operator to the extent that such operator, or person or persons under common ownership or control with such operator, is engaged in the provision of such service;

"(11) 'closed transmission medium' or 'closed transmission media' means media having the capacity to transmit electromagnetic signals over a common transmission path such as coaxial cable, optical fiber, wire, waveguide, or other such signal conductor or device;

"(12) 'information' means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or other symbols;

"(13) 'law' means any regulation, rule, order, standard, policy, requirement, procedure, or restriction;

"(14) 'person' means an individual, partnership, association, joint stock company, trust, corporation or any governmental authority;

"(15) 'public, educational, or governmental service' means the provision by a channel programer of public, educational, or governmental programing, on a noncommercial basis, which is distributed by coaxial cable or any other closed transmission medium, but such term shall not include basic service;

"(16) 'telecommunications' means the transmission of information by electromagnetic means, with or without benefit of any closed transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission;

"(17) 'telecommunications service' means the offering of telecommunications facilities, or of telecommunications by means of such facilities but such term shall not include basic service, public, educational, or governmental service, or cable service; and

"(18) 'United States' means the several States and territories, the District of Columbia, and the possessions of the United States.

"STATEMENT OF AUTHORITY

"SEC. 604. The provisions of this title shall apply as follows:

"(1) The Commission shall have jurisdiction and exercise authority with respect to broadband telecommunications in accordance with the provisions of this Act and other applicable provisions of law.

"(2) Nothing in this Act shall be construed as prohibiting any State or political subdivision or agency thereof, or franchising authority, from awarding, in accordance with the provisions of this Act, cable franchises within its jurisdiction.

"OWNERSHIP OR CONTROL OF CABLE SYSTEMS

"SEC. 605. (a)(1) Except in the case of the antitrust laws of the United States and to the extent otherwise provided in subsections (b) and (c) of this section, no executive agency of the United States, including the Commission, shall have the authority to prohibit, directly or indirectly, the ownership of cable systems by any person by reason of that person's ownership of any other media interests, including broadcast, cable, newspaper, programing service, or other printed or electronic information service.

"(2) No State or political subdivision or agency thereof, or franchising authority, shall have the authority to prohibit, directly or indirectly, the ownership of cable systems by any person by reason of that person's ownership of any other media interests, including broadcast, cable, newspaper, programing service, or other printed or electronic information service.

"(b)(1) Notwithstanding the provisions of subsection (a) of this section, for the purpose of ensuring fair and equitable treatment of United States cable enterprises seeking access to markets in a foreign country, the Commission shall have authority to conduct inquiries applicable to foreign persons from that country seeking access to domestic markets in the United States in connection with the construction, ownership and operation of cable enterprises as to whether such United States cable enterprises are permitted fair and equitable access to such foreign markets.

"(2) The Commission shall submit any information obtained through such inquiries to the United States Trade Representative to assist the Trade Representative in his identification and analysis of acts, policies or practices which constitute significant barriers to, or distortions of, United States exports of services.

"(3) For purposes of this subsection, the term 'foreign persons' includes any individual who is not a citizen of the United States, any subsidiary (although established under the laws of the United States or any State thereof) of a corporation or other business entity which was established under the laws of a foreign country, any corporation or other business entity established under the laws of a foreign country, or any corporation or other business entity established under the laws of the United States or any State thereof, if 25 percent or more of the capital stock or equivalent ownership is owned or controlled by an individual who is not a citizen of the United States or by a corporation or other business entity established under the laws of a foreign country, or any subsidiary of a corporation or other business entity established under the laws of a foreign country.

"(c) Notwithstanding the provisions of subsection (a) of this section, a State or political subdivision or agency thereof, or franchising authority, may not acquire an ownership interest in any cable system, unless such State, subdivision, agency, or authority acquires such ownership or interest at not less than fair market value based upon the ongoing business value of the system, including goodwill. In any case in which any such State, subdivision, agency, or authority has or acquires any such ownership or interest, such State, subdivision, agency, or authority shall, in no case, own or control, directly or indirectly, the content of any of the programing on such cable system except as provided in subsections (b) and (e) of section 606.

"ACCESS CHANNELS

"SEC. 606. (a) Each cable system having 20 or more television broadcast channels (120 MHz or more of bandwidth) shall dedicate or set aside access channels for use by public, educational, or governmental programers in accordance with subsection (b) of this section.

"(b) Any cable system operator subject to subsection (a) of this section, shall dedicate or set aside for access, from available channels, 10 percent of such available channels for use by public, educational, or governmental channel programers.

"(c) For purposes of this section, the term 'available channels' means channels actually and technically available for use by the cable operator and not subject to other use requirements imposed by the Commission.

"(d)(1) The obligation to provide access channels imposed under this section shall cease upon determination by the Commission that there are reasonably available alternatives for persons desiring to provide public, educational, or governmental programing service to the public in a particular geographic area or market.

"(2) In determining whether there are reasonably available alternatives in the relevant area or market, the Commission shall consider—

"(A) the number and size of other providers of such programing service;

"(B) the extent to which such programing service is available from other providers;

"(C) the ability of such other providers to make such programing service readily available at comparable rates, terms, and conditions; and

"(D) other indicators of the extent of competition.

"(e)(1) The franchisor is authorized to establish rules and procedures for the use of the channels set aside or dedicated pursuant to subsection (b) of this section.

"(2) Notwithstanding the provisions of paragraph (1) of this subsection, until such time as there is demand for each channel full time for its designated use, public, educational, or governmental programing may be combined by the cable system operator on one or more channels, and to the extent time is available on such channels, they may be used by the cable system operator for the provision of other services.

"(f) Nothing in this section shall be construed as prohibiting a cable system operator from making available, in his sole discretion, additional channels to public, educational, or governmental programers.

"(g)(1) In any case in which a cable franchise was awarded pursuant to a franchise agreement prior to January 26, 1983, by any State or political subdivision or agency thereof, or franchising authority, and that agreement provides for a percent of channels for use by public, educational, or governmental channel programers to be dedicated or set aside for access which is in excess of the 10 percent required under subsection (b) of this section, nothing in the provisions of subsections (a) and (b) of this section shall be construed as requiring the modification of such franchise agreement in order to bring such agreement into conformity with such subsections. Except as otherwise provided in accordance with subsection (d) of this section, in no case shall any such agreement be modified, on or after the effective date of this title, so as to provide for the dedication or set aside for access of such channels at a percent less than that provided for in subsection (b) of this section or greater than that provided for in such agreement as of the effective date of this title.

"(2) If the term of any franchise agreement referred to in paragraph (1) of this subsection is renewed or otherwise extended on or after the effective date of this title, the provisions of subsections (a) and (b) of this section shall be applicable to such franchise agreement.

"REGULATION OF RATES AND SERVICES

"SEC. 607. (a)(1) Each State or political subdivision or agency thereof, or franchising authority, is authorized to establish, fix, or otherwise restrict the rates charged by cable operators for the use of channels for the provision of basic service, and public, educational, or governmental service, and charged to subscribers by cable operators for such basic service, and such public, educational, or governmental service.

"(2) The authority to establish, fix, or otherwise restrict the rates charged to subscribers for the provision of basic service set forth in subsection (a) of this section shall cease upon determination by the Commission that there are reasonably available alternatives to basic service programing in the particular geographic area or market.

"(3) In determining whether there are reasonably available alternatives in the relevant area or market, the Commission shall consider—

"(A) the number and size of other providers of such programing service;

"(B) the extent to which such programing service is available from other providers;

"(C) the ability of such other providers to make such programing service readily available at comparable rates, terms, and conditions; and

"(D) other indicators of the extent of competition.

"(b) No executive agency of the United States, including the Commission, and no State or political subdivision or agency thereof, or franchising authority, shall have authority to regulate or restrict the provision of or nature of cable services offered over a cable system.

"(c) No executive agency of the United States, including the Commission, and no State or political subdivision or agency thereof, or franchising authority, shall have authority to regulate or restrict the provision of or nature of telecommunications facilities offered by or telecommunications services offered over a cable system, except with respect to the provision of basic telephone service.

"FRANCHISE FEES

"SEC. 608. (a) The Commission shall establish a reasonable ceiling for the fees to be paid to a State or political subdivision or agency thereof, or franchising authority, by operators of cable systems receiving franchises from such State, subdivision, agency, or authority and, periodically upon its own motion or upon petition, may review the appropriateness of such ceiling and make adjustments thereto. The Commission shall establish such ceiling so as to permit only the recovery by such State, subdivision, agency, or authority of the reasonable cost of regulation of such cable system.

"(b) The Commission may waive the franchise fee ceiling established in subsection (a) if, upon a reasonable showing, the franchisor can demonstrate that the reasonable cost of regulation exceeds such ceiling and that such waiver will not interfere with the effectuation of Federal goals and policies established pursuant to this title.

"(c) The Commission shall prescribe procedures necessary to carry out the provisions of this section within the 180-day period following the effective date of its enactment.

"RENEWALS AND EXTENSIONS

"SEC. 609. (a) In any case in which a cable system operator submits an application to the franchisor for the renewal or other extension of such operator's franchise authorization, the franchisor shall grant such renewal or other extension if it finds that—

"(1) the cable system operator has substantially complied with the material terms of such franchise and with applicable law;

"(2) there has been no material change in the legal, technical, or financial qualifications of the cable system operator that would substantially impair the continued provision of service by such operator; and

"(3) the services and facilities to be provided by such operator are reasonable in light of the size, nature, needs, and interests of the community to be served, the age and status of the existing system, the current availability of facilities and services in communities of comparable size and characteristics, and the costs of construction and operation of cable facilities.

"(b) Nothing in this Act shall be construed as prohibiting the filing of competing applications for cable franchises, or as prohibiting the award of multiple cable franchises by a State or political subdivision or agency thereof, or franchising authority.

"PROTECTION OF SUBSCRIBER PRIVACY

"SEC. 610. (a) No person or governmental authority shall intercept or receive broadband telecommunications unless specifically authorized to do so by a cable system operator, channel programer, or originator of broadband telecommunications or as may otherwise be specifically authorized by Federal law.

"(b) In order to safeguard the right to privacy and security of broadband telecommunications, such broadband telecommunications shall be deemed to be a 'wire communication' within the meaning of section 2510(1) of title 18 of the United States Code.

"(c) In the event that there may be any difference between the provisions of this section and chapter 119 of title 18 of the United States Code, or any regulations promulgated thereunder, it is the intent of the Congress that such chapter 119 shall be controlling.

"(d)(1) Except as provided in paragraph (2) of this subsection, no cable operator, channel programer, or originator of broadband telecommunications may use the cable system to collect personally identifiable information with respect to a cable subscriber, except upon the prior written consent of that subscriber.

"(2) The provisions of paragraph (1) of this subsection shall not apply to the collection of information solely for billing purposes or to monitor whether there is unauthorized reception of cable telecommunications.

"(3) A cable operator, channel programer, or originator of broadband telecommunications shall ensure that any such information is destroyed when the information is no

longer used or to be used for the purposes for which it was collected.

"(e) No cable operator, channel programer, or originator of broadband telecommunications shall disclose personally identifiable information obtained pursuant to subsection (d) of this section with respect to a cable subscriber, or personally identifiable information with respect to the services provided to or received by a particular cable subscriber by way of a cable system, except upon the prior written consent of the subscriber, or pursuant to a lawful court order authorizing such disclosure.

"(f) If a court shall authorize or order disclosure, the cable subscriber shall be notified of such order by the person to whom such order may be directed, within a reasonable period of time before the disclosure is made, but in no event less than 14 calendar days.

"(g) Each cable operator shall, at the time of entering into an agreement to provide cable telecommunications, and regularly thereafter, inform every subscriber of the rights of the subscriber under this section. Such information shall include a description of the nature of the information to be maintained by the cable operator, channel programer, or originator of broadband telecommunications, and the location and availability of such information.

"(h) A cable subscriber shall have access to all personally identifiable information regarding that subscriber which is collected and maintained by a cable operator, channel programer, or originator of broadband telecommunications. Such information shall be available to the subscriber at reasonable times and at a place designated by the cable operator, channel programer, or originator of broadband telecommunications.

"(i) Any cable subscriber whose privacy is violated in contravention of this section, shall be entitled to recover civil damages as authorized and in the manner set forth in section 2520 of title 18 of the United States Code. This remedy shall be in addition to any other remedy available to such subscriber.

"CRIMINAL AND CIVIL LIABILITY

"SEC. 611. Nothing in this title shall be deemed to affect the criminal or civil liability of channel programers pursuant to the law of libel, slander, obscenity, incitement, invasions of privacy, false or misleading advertising, or other similar laws, except that cable operators shall not incur such liability for any program carried on any public, educational, or governmental channel referred to in subsection (b) of section 606, or for any program required by law to be carried on any other channel.".

EXCLUSIVE JURISDICTION

SEC. 2. (a) Except to the extent otherwise specifically provided in title VI of the Communications Act of 1934, as added by the first section of this Act, the Federal Government shall have exclusive jurisdiction over broadband telecommunications regarding matters covered by or otherwise within the purview of such title.

(b) Any law of any State or political subdivision or agency thereof, or franchising authority, in effect on the effective date of title VI of the Communications Act of 1934, as added by the first section of this Act, which is in conflict with the provision of subsection (a) of this section relating to the exclusive jurisdiction of the Federal Government, shall be deemed superseded, as of the effective date of such title, and shall thereafter be null and void and of no effect.

NEW AND ADDITIONAL SERVICES

SEC. 3. Title I of the Communications Act of 1934 is amended by inserting after section 6 the following new section:

"NEW AND ADDITIONAL SERVICES

"SEC. 7. (a) Consistent with sound spectrum management, the Commission shall, to the maximum feasible extent, encourage the introduction of new and additional services by new applicants, existing licensees, or other persons. In any proceeding in which new or additional services are proposed, such services shall be presumed to be in the public interest whenever the Commission finds that such services are technically feasible without causing significant technical degradation to or interference with radio transmissions by other licensees.

"(b) Any person may file with the Commission a petition to establish or an application to offer a new or additional service.

"(c) The Commission must determine whether the new or additional service proposed in a petition or application is in the public interest within 180 days after such petition or application is filed. If the Commission initiates its own proceeding for a new or additional service, such proceeding must be completed within 180 days after it is initiated.".

EFFECTIVE DATE

SEC. 4. The provisions of this Act and the amendments made thereby shall take effect on the date of the enactment of this Act, except that, in the case of any franchise agreement in effect prior to the date of the enactment of this Act, the parties thereto shall have the 90-day period following such date of enactment within which to bring such agreement into compliance with the provisions of this Act and the amendments made thereby.

REDESIGNATION

SEC. 5. The existing title VI of the Communications Act of 1934 is redesignated as title VII, and sections 601 through 609 are redesignated as sections 701 through 709, respectively.

SUMMARY OF S. 66

1. The purposes of this bill are to establish a national policy concerning cable; to establish guidelines for the exercise of regulatory authority; and to allow cable to compete equally in the marketplace.

2. Basic service is defined as the retransmission of broadcast signals.

3. Public, educational, or governmental (PEG) service is defined as PEG programing, but not basic service.

4. Cable service is defined as one-way programing, but not basic service or PEG service.

5. Telecommunications service is defined as the offering of information by electromagnetic means, but not basic service, PEG service, or cable service.

6. The Federal Communications Commission (FCC) shall have jurisdiction over cable.

7. States, subdivisions, etc. are granted the authority to award cable franchises.

8. The bill prohibits Federal, state, or local regulation or restriction of ownership by any person by reason of that person's ownership of any other media interests.

9. The FCC has authority to conduct inquiries concerning foreign ownership of cable, and it shall submit any information it obtains of trade barriers to the U.S. Trade Representative.

10. Municipal ownership is allowed; municipal acquisition is permitted but only at fair market value, and if there is no control over programing content.

11. Cable systems with 20 or more channels must set aside, from available channels (not subject to other use requirements) 10 percent for use by public, educational, or governmental programers.

12. The franchisor may establish rules for the use of the public, educational, or governmental channels.

13. Programing may be combined by the cable operator on fewer channels until sufficient demand develops, and unused channels may be used by the cable operator until there is a demand.

14. The access channel obligation shall cease when there are reasonably available alternatives for PEG service.

15. The cable operator may make available, in his sole discretion, additional channels to public, educational, or governmental programers.

16. Any access provision in a franchise agreement in existence on January 26, 1983, which exceeds the 10 percent set aside for public, educational, or governmental programers, is grandfathered for the life of the franchise agreement.

17. Each state, subdivision, etc., may regulate the rates charged by cable operators for the use of channels for basic service and PEG service, or charged to subscribers for those basic services and PEG services.

18. The authority to regulate rates for basic service shall cease when there are reasonably available alternatives for basic service.

19. No entity (Federal, state, or local) shall have authority to regulate or restrict the provision of or nature of cable services offered over a cable system.

20. No entity (Federal, state, or local) shall have authority to regulate or restrict the provision of or nature of telecommunications facilities offered by or telecommunications services offered over a cable system, except for the provision of basic telephone service.

21. The FCC shall establish a reasonable franchise fee ceiling paid by cable operators, and the fee is designed to permit only the recovery of the reasonable cost of regulation of the cable system.

22. The franchisor shall grant a renewal or extension to the cable operator if it finds that: (a) the operator has substantially complied with the material terms of the franchise and with other laws; (b) there has been no material change in the legal, technical, or financial qualifications of the operator which would impair service; and (c) the services and facilities to be provided are reasonable.

23. There is a specific grant of authority to states, cities, etc. to accept competing applications for cable franchises, and to award multiple cable franchises.

24. The cable system cannot be used to collect personally identifiable information about a subscriber, and no cable operator shall disclose personally identifiable information about a subscriber without prior written subscriber consent or court order.

25. Channel programers remain subject to criminal and civil liability for libel, slander, etc., but cable operators are not liable for programs carried on any of the access channels, or for programs required by law to be carried.

26. The Federal government shall have exclusive jurisdiction over cable regarding matters covered by this Act, and any state or local law which is in conflict is superseded, null and void, and of no effect.

27. The FCC shall encourage new and additional services and such services will be presumed to be in the public interest if they are technically feasible.

28. The parties to a franchise agreement have 90 days from the date of enactment to

bring the agreement into compliance with this Act.●

By Mr. LONG (for himself, Mr. PROXMIRE, and Mr. SPECTER):

S. 70. A bill to delete the provisions of the Internal Revenue Code of 1954 which treat Members of Congress separately with respect to living expense deductions; to the Committee on Finance.

TAX TREATMENT OF MEMBERS OF CONGRESS

Mr. LONG. Mr. President, today Senators PROXMIRE, SPECTER, and I are introducing legislation which will eliminate from the Internal Revenue Code all special provisions relating to deductions claimed by Members of Congress. This legislation will permit Members to be subject to the same tax rules that govern all other taxpayers.

The bill would eliminate the irrebuttable presumption in the Internal Revenue Code that a Member's principal place of business for Federal tax purposes is located in the State or district he or she represents. Under this statutory fiction, a Member of Congress is considered to be away from home for tax purposes when he is in Washington, even if Washington is where he does most of his work and spends most of his time. This entitles him to deduct up to $3,000 in Washington expenses on the theory that the Washington expenses are for business travel. There is no businessman in the country who gets to deduct the cost of living at home, within commuting distance of the office where he does most of his work. The only reason that Members of Congress can deduct this type of personal living expense is because of this special Members-only rule. That is wrong, and it should be corrected.

This bill would have no effect on a Member's legal residence for purposes of State income taxes, voter registration, or other similar questions. It would simply mean that Members of Congress would be governed by the rules applicable to other taxpayers whose jobs require a division of time between two distant locations. Under these rules, a taxpayer may not deduct expenses for living near his principal post of duty or principal place of business. On the other hand, a taxpayer may deduct all reasonable expenses for travel, meals, and lodging incurred while the taxpayer is away from his principal post of duty or principal place of business.

I should point out that a taxpayer can have only one principal place of business for Federal tax purposes. This was an issue in the late 1940's and early 1950's, and the concern then that a Member of Congress might be treated as having two principal places of business, and thus be denied any deductions for traveling expenses, was at least part of the reason the Congress chose to specify a Members's State or district as his only principal place of business. Today, however, the law is clear that a taxpayer cannot have two such places at the same time.

The location of the principal place of business of a Member of Congress would be determined by all the facts and circumstances. Without prejudging the question for all Members, I would suppose that Washington would be seen as the principal post of duty or place of business for many Members of Congress—even though their legal domicile would be elsewhere. If Washington is treated as a Member's principal post of duty, then his expenses for personal meals and a personal home in the Washington area would not be allowed. His expenses for travel away from Washington would be deductible business expenses, without any dollar cap but subject to the general rule that only reasonable expenses are deductible.

The heart of this proposal is the elimination of references in the tax law to the deductions of Members of Congress. It would not permit Members of Congress to receive better treatment or to suffer worse treatment than taxpayers at large. It simply provides equal treatment.

By Mr. MATTINGLY:

S. 77. A bill to expand the export sales of agricultural commodities produced in the United States through the use of commodities acquired by the Commodity Credit Corporation; to the Committee on Agriculture, Nutrition, and Forestry.

EXPORT ENHANCEMENT ACT OF 1983

Mr. MATTINGLY. Mr. President, I am today reintroducing a measure to enhance the export sales of American farm commodities and value-added food products derived from such commodities. A majority of my colleagues supported a similar effort in the waning hours of the 97th Congress, but due to the extremely limited time we were unable to secure unanimous consent prior to adjournment.

As I pointed out in December, the financially depressed producers of food and fiber in this country must be quickly afforded some relief from the unfair and predatory subsidy tactics of many foreign nations. These practices have magnified our farm producers woes by artificially denying a fair share of the world market to U.S. products. The effects of the foreign subsidies are most blatantly apparent when one looks at the export markets for U.S. broilers, chicken parts, and eggs.

For the period January to May 1982 U.S. poultry, meat, and egg exports had fallen some 28 percent from the same period a year earlier. Major markets accounting for a decline in whole broilers during this period were Egypt, which imported 21,417 metric tons during January-May 1981, but only 963 tons in 1982; Iraq with 18,008 in 1981 and zero during January-March in 1982; and Venezuela with January-May 1981 purchases of 10,583 tons versus 2,507 in the 1982 period.

With the aid of direct and export subsidies the European Community and Brazil have been able to unfairly capture large segments of the world market for whole chickens and table eggs. For example, the European Community now accounts for more than 53 percent of total exports of whole chickens to the Middle East market. Brazil entered this market for the first time in 1975 and now accounts for 38 percent of total export sales while America's nonsubsidized products have slipped to less than a 6-percent share. The negative impact on U.S. farm income and balance of trade in this example is repeated in many other areas where our producers have lost markets to subsidized foreign competition.

A more comprehensive bill has been introduced dealing with this problem by my distinguished colleagues Senator COCHRAN of Mississippi and Senator HUDDLESTON of Kentucky who both serve on the Agriculture Committee. I am delighted to join those gentlemen and a number of other Senators as an original cosponsor of the bill and I will work for its speedy consideration and passage. However, I feel compelled to introduce this measure as a somewhat more streamlined and targeted alternative which would be available in the event our other efforts were to be delayed for any reason.

Mr. President, time is of the absolute essence in this vital matter. Every moment of delay only serves to encourage the subsidizing predators to expand their activities. As a participant in the GATT Conference in Geneva last November, I am convinced that the only recourse available is for the Congress to take strong, effective, and immediate action which will allow the Secretary of Agriculture to help U.S. producers compete on a more equal basis against the unfair tactics of our trading partners. We must convince them that we really mean business before they will sit down at the bargaining table to seriously negotiate free and fair trade practices.

By Mr. MATTINGLY:

S. 78. A bill to provide that benefits under title II of the Social Security Act may be paid to aliens only after they have been lawfully admitted to the United States for permanent residence, and to impose further restrictions on the right of any alien in a foreign country to receive such benefits; to the Committee on Finance.

SOCIAL SECURITY SYSTEM LOOPHOLES

Mr. MATTINGLY. Mr. President, today I introduce legislation which would correct one of the many flaws in the social security system. It is a loophole in our system which amounts to hundreds of millions of dollars a year. Such drains upon the social security system are unconscionable.

The problem is windfall benefits to aliens. These people work for a brief time in the United States, only to leave the United States to retire and